IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

MFA.No. 109 of 2007()

OA.56/2004 of RAILWAY CLAIMS TRIBUNAL, ERNAKULAM
.....

APPELLANT: APPELLANT

SOBY NINAN.
S/O. M.V.NINAN
MUNDACKAL HOUSE, KALAMASSERRY P.O.,
ERNAKULAM.

BY ADV. SRI.JOHN MATHEW

RESPONDENTS:
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1. THE GENERAL MANAGER,
WESTERN RAILWAY
CHURCHAGATE
MUMBAI.

2. THE GENERAL MANAGER
SOUTHERN RAILWAY
CHENNAI.

BY ADV. SMT.A.RAJESWARI, SC, RAILWAYS
ADV.SRI.ALEXANDER THOMAS

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.109 OF 2007 (A)

Dated this the 12th day of July, 2007

J U D G M E N T

KOSHY,J.

Appellant petitioner while travelling in a train met with an accident and claimed compensation before the Tribunal under Section 16 of the Railway Accidents Compensation (Amendment) Rules, 1997 The following were the injuries suffered by him:

> "The undisputed medical records show that the applicant sustained a fracture of the left humerus and also a fracture of both bones of the left forearm apart from the injuries to the upper limb, head and the nerves of the forearm."

Tribunal granted Rs.64,000/- for scheduled injuries as according to the tribunal compensation can be granted under item No.34 of Schedule to the Untoward Accident Compensation Rules, as two bones were fractured and for non

scheduled injuries, the maximum compensation payable under the rule under Rule 3(3) Second Proviso, Rs.80,000/- was granted. Total amount of compensation was Rs.1,44,000/-. It is the contention of the petitioner that he has spent more than Rs.4 lakhs and Ext.A15 medical certificate shows that he has spend more than Rs.2,77,598/-. Under the Rules there is no provision for reimbursement of the same. According to the learned counsel for the appellant there should be a provision under the Rules for reimbursement of the medical expenses and tribunal ought to have granted compensation depending upon the percentage of disability as Doctor has certified 45% disability. We cannot grant compensation on excess to amount provided under the Rules. This appeal is dismissed without prejudice to rights of the petitioner to take up the matter elsewhere.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO. OF 2006 ()

J U D G M E N T

2nd July, 2007